

From: ice-foia@dhs.gov
To: [Kelly Simon](#)
Subject: ICE FOIA Request 2018-ICFO-03359
Date: Monday, October 23, 2017 12:10:19 PM

October 23, 2017

KELLY SIMON
 ACLU FOUNDATION OF OREGON
 PO BOX 40585
 PORTLAND, OR 97240

RE: ICE FOIA Case Number 2018-ICFO-03359

Dear SIMON:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated October 10, 2017, and to your request for a waiver of all assessable FOIA fees. Your request was received in this office on October 10, 2017. Specifically, you requested The ACLU seeks release of the following: Records created or received in the Seattle Field Office or any ICE offices or suboffices in Oregon on or after January 20, 2017, regarding immigration enforcement actions in or near Oregon courthouses. Records concerning the number of individuals who have been detained, arrested or otherwise subject to questioning by ICE agents or any officials working in cooperation with ICE in or near an Oregon courthouse dating back to January 1, 2017. Records concerning policies, guidelines, and standards of conduct for officers conducting enforcement actions at or near courthouses, including but not limited to policies about selection of enforcement targets, clothing worn by agents during arrests, in particular, uniforms, display of name and/or badges, providing identification, production of warrants, presence of warrants, use of vehicles and responding to questions raised by those being detained, questioned, arrested and/or witnesses thereto. Records concerning policies, guidelines, and standards of conduct related to discrimination, race-based or otherwise, for officers conducting enforcement actions. Records concerning the number of individuals who have been detained, arrested or otherwise subject to questioning by ICE agents or any officials working in cooperation with ICE in or near an Oregon courthouse dating back to January 1, 2017. Records concerning policies, guidelines, and standards of conduct for officers conducting enforcement actions at or near courthouses, including but not limited to policies about selection of enforcement targets, clothing worn by agents during arrests, in particular, uniforms, display of name and/or badges, providing identification, production of warrants, presence of warrants, use of vehicles and responding to questions raised by those being detained, questioned, arrested and/or witnesses thereto. Records concerning policies, guidelines, and standards of conduct related to discrimination, race-based or otherwise, for officers conducting enforcement actions. All records regarding compliance with 8 U.S.C. § 1229(e), including internal policies. All records concerning activities and enforcement action(s) of ICE agents or officials working in Hillsboro, Oregon on September 18, 2017. See request for further details..

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10- day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

Your request for expedited treatment is hereby denied.

Under the DHS FOIA regulations, expedited processing of a FOIA request is warranted if the request involves "circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual," 6 C.F.R. § 5.5(e)(1)(i), or "an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information," 6 C.F.R. § 5.5(e)(1)(ii). Requesters seeking expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct. 6 C.F.R. § 5.5(e)(3).

Your request for expedited processing is denied because you do not qualify for either category under 6 C.F.R. § 5.5(e)(1). You failed to demonstrate a particular urgency to inform the public about the government activity involved in the request beyond the public's right to know about government activity generally. Your letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards.

You have requested a fee waiver. The DHS FOIA Regulations at 6 CFR § 5.11(k)(2) set forth six factors ICE must evaluate to determine whether the applicable legal standard for a fee waiver has been met: (1) Whether the subject of the requested records concerns "the operations or activities of the government," (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities, (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons, (4) Whether the contribution to public understanding of government operations or activities will be "significant," (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure, and (6) Whether the magnitude of any identified commercial interest to the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester. Upon review of the subject matter of your request, and an evaluation of the six factors identified above, ICE has determined that it will conditionally grant your request for a fee waiver. The fee waiver determination will be based upon a sampling of the responsive documents received from the various ICE program offices as a result of the searches conducted in response to your FOIA request. ICE will, pursuant to DHS regulations applicable to non-commercial requesters, process the first 100 pages. If upon review of these documents, ICE determines that the disclosure of the information contained in those documents does not meet the factors permitting ICE to waive the fees, then ICE will at that time either deny your request for a fee waiver entirely, or will allow for a percentage reduction in the amount of the fees corresponding to the amount of relevant material found that meets the factors allowing for a fee waiver. In either case, ICE will promptly notify you of its final decision regarding your request for a fee waiver and provide you with the responsive records as required by applicable law.

In the event that your fee waiver is denied, and you determine that you still want the records, provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requestors. As a non-commercial requester you will be charged for any search time and duplication beyond the free two hours and 100 pages mentioned in the previous paragraph. You will be charged 10 cents per page for duplication and search time at the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher. In the event that your fee waiver is denied, we will construe the submission of your request as an agreement to pay up to \$25.00. This office will contact you before accruing any additional fees.

ICE has queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2018-ICFO-03359**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2017-ICFO-XXXXX or 2018-ICFO-XXXXX tracking number. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, please contact FOIA office. You may send an e-mail to ice-foia@ice.dhs.gov, call free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Regards,

ICE FOIA Office
Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009

Washington, D.C. 20536-5009
Telephone: 1-866-633-1182
Visit our FOIA website at www.ice.gov/foia